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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,781	09/20/2001	James Leonard Smith	A01105US (98486.2US)	6267

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EXAMINER

KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 06/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/856,781

Applicant(s)

SMITH, JAMES LEONARD

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34, 44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Specification

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-15, 17-23, 25-32, 34 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,585,155 to Heikkila et al.

Regarding claims 1-6, 15, 17-23, 32, 34 and 44, Heikkila discloses a non foamed, hollow (column 7, lines 6-7) load bearing element made from a thermoplastic material such as polyethylene (column 5, lines 35-37) capable of a Young's modulus in excess of 500,000 psi (column 6, line 3-5). However, Heikkila does not specifically mention the element having a flexural modulus of 4000 or 5,500 MPa or above. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the structural board by increasing or decreasing it's load capacity in order to be capable of supporting expected loads to remain economically feasible.

Regarding claims 8 and 25, Heikkila discloses the use of recycled materials (column 8, line 31).

Regarding claims 9, 13, 26 and 30, Heikkila discloses the use of glass fibers (column 6, line 36).

Regarding claims 10-12, 14, 27-29 and 31, Heikkila discloses the basic claim structure of the instant application but does not disclose specific dimensions or orientation of glass fibers being at least 5mm in length. It would have been an obvious design choice to use the dimensions such as specified in these claims.

Claims 7, 16, 24 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,585,155 to Heikkila et al. in view of U.S. Patent No. 6,344,268 B1 to Stuckey et al.

Regarding claims 7 and 16, Heikkila does not disclose the use of polypropylene. Stuckey discloses a thermoplastic structural member made of polypropylene (column 3, line 66). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Heikkila by using polypropylene as disclosed by Stuckey in order to reduce costs, as polypropylene is commonly used in the production of synthetic building components such as synthetic lumber or deck boards.

Regarding claims 16 and 33, Heikkila does not specifically mention the structural member as having a non slip surface. Stuckey discloses a thermoplastic structural member having an outer layer with a non-slip surface (column 4, line 57). Since Heikkila discloses the structural member as a replacement for lumber (abstract), it

would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Heikkila by adding a non slip surface as disclosed by Stuckey in order to provide a surface which resists slippage to the pedestrian and increase safety.

Response to Arguments

Applicant's arguments filed 4/21/03 have been fully considered but they are not persuasive. Applicant is arguing limitations which the Stuckey reference does not disclose. However, these limitations have been added to the claims in the amendment of paper no. 14, after the rejections based on Stuckey, and are being treated on their merits in the present office action under the rejections based on Heikkila in view of Stuckey.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to synthetic structural components in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK *B**

6/4/03


Carl D. Friedman
Supervisory Patent Examiner
Group 3600